

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Humberto Berra and Samuel Arbefeuille

Application No.: 10/784,462 Group: 3738

Filed: June 8, 2006 Examiner: Brian Pellegrino

Confirmation No.: 8228

For: STENT GRAFT WITH LONGITUDINAL SUPPORT MEMBER

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the United States Patent and Trademark Office on:	
_____ Date	_____ Signature
_____ Typed or printed name of person signing certificate	

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Statement of the Substance of the Interview is being filed in response to an in-person interview with Examiner Pellegrino on June 16, 2010 at the U.S. Patent and Trademark Office ("USPTO") in the above-identified application. Samuel Arbefeuille, an Applicant, John C. Canning, a representative of the Assignee, and Applicants' Attorneys of record, Nelson Scott Pierce and Mary K. Murray, were present at the interview. Applicants and Applicants' Attorneys thank Examiner Pellegrino for his helpful discussions and for granting the interview.

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

The substance of the interview conducted June 16, 2010 concerned a Reply, electronically filed with the U.S. Patent and Trademark Office (USPTO) on February 2, 2010, in response to an Office Action mailed from the USPTO on July 9, 2009. The majority of the claims were discussed, in particular, proposed amendments to independent Claims 1, 16, 18, 20, 25 and 28 were discussed.

An Interview Summary, mailed on June 18, 2010, provided Examiner Pellegrino's summary of the interview. In the Interview Summary, the Examiner indicated that agreement was reached with respect to the claims.

At the beginning of the interview, Mr. Arbefeulle, a named inventor, and Applicants' Attorneys described Applicants' claimed invention, which is directed to a vascular repair device that includes a longitudinal support member that is on one side of a plane bisecting the longitudinal axis of the tubular graft body of the vascular repair device. The second side of the plane bisecting the longitudinal axis of the graft body is free of longitudinal support.

Mr. Arbefeulle and Mr. John Canning, a representative of the Assignee, and Applicants' Attorneys described the advantages of Applicants' claimed vascular repair device, including restriction of the longitudinal support member to one side of a plane bisecting a longitudinal axis of the graft body to permit Applicants' vascular repair device to flex asymmetrically, namely on the side of the graft body that is free of longitudinal support. Asymmetric flexing has the advantage of facilitating orientation of the vascular repair device within a blood vessel without collapsing of the device during its deployment. Mr. Arbefeulle and Applicants' Attorneys demonstrated Applicants' invention, in particular, by showing Examiner Pellegrino an embodiment of Applicants' vascular repair device.

During the interview, Messrs. Arbefeulle and Canning, and Applicants' Attorneys described how Applicants' vascular repair device is distinct from other vascular repair devices. In particular, Messrs. Arbefeulle and Canning, and Applicants' Attorneys distinguished Applicants' vascular repair device from the vascular repair devices described in WO 98/23242, by Robinson *et al.* (hereinafter "Robinson") and U.S. Patent Nos: 5,545,210, issued to Hess *et al.* (hereinafter "Hess"), 6,821,291, issued to Bolea *et al.* (hereinafter "Bolea"), 6,524,335, issued to

Hartley, *et al.* (hereinafter "Hartley") and 6,099,558, issued to White *et al.* (hereinafter "White"). The rejections made in the Office Action mailed from the USPTO on July 9, 2009 under 35 U.S.C. § 102(b), in view of Robinson, and § 103(a), in view of Robinson in combinations with Hess, Bolea, Hartley and White were discussed.

Applicants' Attorneys, in reference to FIGs. 6 and 21 of Robinson, described the location of elongate struts 50 of the vascular repair device of Robinson around the entirety of the frame 36, not on one side of the frame 36. Applicants' vascular repair device, as set forth in pending independent Claims 1, 16, 18, 20, 25 and 28, includes a longitudinal support member on one side of a plane bisecting the longitudinal axis of the graft body while the graft body on the other side of the plane is free of longitudinal support, which is not taught or suggested by Robinson. Applicants' Attorneys summarized the teachings of Hess, Bolea, Hartley and White and noted that none of these references, each alone or in any combination, remedied the deficiencies of Robinson to teach or suggest a vascular repair device that includes a longitudinal support member on one side of a plane bisecting the longitudinal axis of the graft body while the graft body on the other side of the plane is free of that longitudinal support, which is an essential element of Applicants' vascular repair device.

For example, in reference to FIGs. 2 and 3 and Col. 5, lines 1-4 of Hess, Applicants' Attorneys noted that bridging member 7 of Hess is not curved or does not provide longitudinal support, depending upon which bridging member is considered. Applicants' repair device was also distinguished from the device described by Bolea, specifically with reference to c-shaped member 180 depicted in FIG. 22 of Bolea, which is not restricted to one side of a plane bisecting a longitudinal axis of the graft body, as required by Applicants' claimed vascular repair device. It was also discussed that Hartley, as shown in FIG. 2, does not teach or suggest a vascular repair device with a distal most stent with one more apex than any of the other stents, as required in an embodiment of Applicants' vascular repair device, as set forth in Claim 54. Messrs. Arbefeuille and Canning, and Applicants' Attorneys stated that one of skill in the art would not be motivated to modify the vascular repair device of Robinson, alone or in any combination with Hess, Bolea, Hartley or White, to produce a vascular repair device that restricts a longitudinal support member to one side of a plane bisecting a longitudinal axis of a graft body, as required by Applicants' claimed vascular repair device. Thus, Applicants' claimed vascular repair device meets the

requirements of 35 U.S.C. §§ 102(b) and 103(a) in view of Robinson, Hess, Bolea, Hartley and White, taken separately or in any combination.

As described in the Interview Summary prepared by Examiner Pellegrino, which was mailed from the USPTO on June 18, 2010, Messrs. Arbefeulle and Canning and Applicants' Attorneys discussed a possible amendment to the pending independent Claims 1, 16, 18, 20, 25 and 28 to specify that the longitudinal support member "is on one side of a plane parallel to and bisecting said longitudinal axis of said graft body" of Applicants' vascular repair device.

With reference to the second side of the plane bisecting the longitudinal axis, as set forth in the pending independent Claims 1, 16, 18, 20, 25 and 28, Examiner Pellegrino stated that the limitation "free of longitudinal support" was unclear. Applicants' Attorneys and Messrs. Arbefeulle and Canning discussed a possible additional amendment to clarify what was meant by longitudinal support in view of pending independent claims, which requires that the longitudinal support member be located on one side of a plane parallel to and bisecting a longitudinal axis of a graft body of Applicants' vascular repair device. Applicants' Attorneys stated that restriction of the longitudinal support member to one side of the plane of the graft body inherently means that the longitudinal support member can not be on the second side of the plane and that "the longitudinal support member" was distinct from "longitudinal support." As stated in the Interview Summary, Examiner Pellegrino suggested a possible amendment to specify that "on a second side of the plane, the graft body being free of the longitudinal support." Applicants' Attorneys and Messrs. Arbefeulle and Canning stated they would consider the Examiner's suggestion and made clear that such a limitation would mean lack of equivalent longitudinal support on the "one side of a plane bisecting said longitudinal axis of said graft body," which is also discussed in Examiner Pellegrino's Interview Summary.

At the conclusion of the interview, and as stated in the Interview Summary, Examiner Pellegrino stated that the proposed amendments to independent Claims 1, 16, 18, 20, 25 and 28 would appear to overcome the rejections of record, pending additional searching. Applicants' Attorney, Mary K. Murray, provided Examiner Pellegrino with proposed hand-written amendments to independent Claims 1, 16, 18, 20, 25 and 28, incorporating the suggested amendments to specify that the longitudinal support member "is on one side of a plane parallel to and bisecting said longitudinal axis of said graft body" and that "on the second side of the plane, the graft body being free of the longitudinal support member," as discussed during the interview

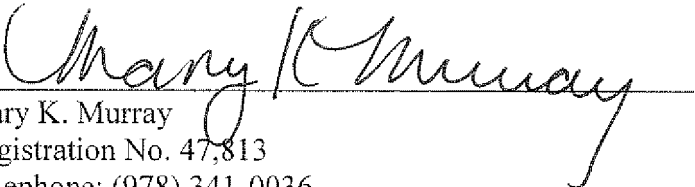
(emphasis added). Applicants' Attorneys authorized the cancellation of claims that had been withdrawn consequent to a Restriction Requirement.

CONCLUSION

If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 
Mary K. Murray
Registration No. 47,813
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated:

